

Persons who transfer tangible personal property incident to providing repairs under service contracts that were sold separately from the tangible personal property being repaired are acting as servicemen and incur a Use Tax liability based on their cost price of tangible personal property transferred incident to the completion of the repair. See 86 Ill. Adm. Code Sec. 140.301. (This is a GIL).

March 6, 2001

Dear Xxxxx:

This letter is in response to your letter dated January 4, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

We are seeking information on the ruling for sales tax on repairs relating to service contracts on automobiles.

Any information you can supply would be most appreciated.

Thank you in advance for your help.

The taxability of service contracts or maintenance agreements is dependent upon whether charges for these agreements are included in the selling price of the tangible personal property, such as vehicles, that are sold. If said charges are included in the selling prices, those charges are part of the gross receipts of the retail transactions and are subject to tax at that time. In these situations, the charges represent the consideration paid by the customer for an enforceable agreement included in the selling price of the product that obligates a seller to make future repairs. No tax is incurred on the maintenance services or parts when the repairs or servicing is subsequently performed.

Alternatively, businesses may sell service agreements or maintenance contracts as separate agreements for predetermined fees. In these transactions, the proceeds from the sale of such contracts or agreements are not subject to tax. However, persons who transfer tangible personal property incident to providing service under separate maintenance agreements or automobile service contracts are acting as servicemen and incur Use Tax liability based on their cost price of tangible personal property such as tires, oil, valves and other automotive parts transferred incident to the completion of the maintenance agreements. See part (3) of subsection (b) of the enclosed copy of 86 Ill. Adm. Code Sec. 140.301.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz  
Associate Counsel

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Enc.